

**B. Remarks**

1. Status of the Claims

Claims 1-16 are pending in the application. The examiner has rejected claims 1-4, 6-10, and 11-15 under 35 U.S.C. § 102(b) as unpatentable over U.S. Patent No. 6,370,381 to Minnick et al. ("Minnick") and further in view of U.S. Patent No. 5,479,477 to McVey et al. ("McVey"). The examiner has objected to claims 5, 10 and 16 as being dependent upon a rejected base claim, but has indicated that they would be allowable if rewritten in independent form including all the limitations of their respective base claims and any intervening claims.

Applicant respectfully traverses the examiner's bases for rejection on the grounds that the foregoing references, either alone or in combination, simply do not teach the limitations of "generating an abstract resource specification based on the identifying of hardware resource constraints and interdependencies for use during hardware resource allocation *to enable maximum preservation of most functional and least available hardware resources during hardware resource allocation,*" "a processor for interpreting an abstract resource specification identifying the available system hardware resources and the constraints associated therewith *in a manner that enables maximum preservation of most functional and least available hardware resources during hardware resource allocation,*" "interpreting an abstract hardware resource specification for use during hardware resource allocation to facilitate *maximum preservation of most functional and least available hardware resources while still enabling application hardware resource needs to be met,*" or "performing a *dynamic* hardware resource investigation to identify hardware resource constraints and interdependencies" (emphasis added). At least one of these limitations is present in each of independent claims 1, 6, and 11, as filed. Accordingly, each of these independent claims is patentable over the cited art.

Notwithstanding, and without prejudice, Applicant hereby amends independent claims 1, 6 and 11 to incorporate all of the limitations of claims 5, 10 and 16, respectively, each of which the examiner has deemed to comprise allowable subject matter. Accordingly, Applicant respectfully submits that the application is in condition for allowance and requests reconsideration towards that end.

Respectfully submitted,



---

Mark P. Vrla  
Registration No. 43,973  
Attorney for Applicant

Date: February 3, 2004

JENNER & BLOCK  
One IBM Plaza  
Chicago, IL 60611  
(312) 222-9350

1034714